

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Charles Lamb,)	Civil Action No.: 2:12-3382-CMC-BHH
)	
Plaintiff,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
)	
Y Dorm Officer <i>who was assign in Y</i>)	
<i>Dorm on 1-27-2012,</i>)	
)	
Defendant.)	

Plaintiff filed the instant action on or about November 29, 2012. (Dkt. No. 1.) In the caption of the Complaint, Plaintiff identified the Defendant as "Officer V. Y-Dorm 1/27/2012 that who was assign in Y-Dorm on 1/27/2012 see the Y-log book that who was assign in the Y-Dorm on 1/27/2012 V. Y-Dorm Log Book." (Dkt. No. 1 at 1 of 5.) On February 8, 2013, the undersigned issued the following text order:

TEXT ORDER re 19 Summons Returned Unexecuted. The instant action was filed on or about November 29, 2012 against Defendant Y Dorm Officer "who was assign in Y Dorm on 1-27-2012." (Dkt. No. 1 .) The United States Marshal Service attempted to serve Defendant Y Dorm Officer but was unable to locate this Defendant for service. (Dkt. No. 19 .) The "Remarks" section of the Process Receipt and Return states, "Unable to identify Y Dorm Officer. Need further identifiers to include Y Dorm Officer's name (first and last)." (Dkt. No. 19 .) It is therefore ORDERED that Plaintiff shall have 20 days from the date of this Order to submit a new summons and new Form USM-285 for Defendant Y Dorm Officer, and these forms must contain Defendant Y Dorm Officer's full name and address for service. As stated in the undersigned's order dated December 12, 2012, "Plaintiff must provide, and is responsible for, information sufficient to identify Defendant on the Form USM-285. The United States Marshal cannot serve an improperly identified defendant, and unserved defendants may be dismissed as parties to a case." (Dkt. No. 10 at 2 of 4.) The Clerk is directed to send Plaintiff one blank summons and one blank Form USM-285. If Plaintiff fails to submit these forms with Defendant Y Dorm Officer's first name, last name, and an address, this case may be dismissed for violating this order. AND IT IS SO ORDERED.

(Dkt. No. 20.) Plaintiff did not respond to this order.

Plaintiff has not provided information requested by the Marshals and ordered by the undersigned. As stated in the undersigned's order dated December 27, 2012,

Plaintiff must provide, and is responsible for, information sufficient to identify Defendant on the Form USM-285. The United States Marshal cannot serve an improperly identified defendant, and unserved defendants may be dismissed as parties to this case.

(Dkt. No. 15 at 2 of 2.)

Based on the foregoing, it appears the Plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce Howe Hendricks
United States Magistrate Judge

April 9, 2013
Charleston, South Carolina

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
Post Office Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).